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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

In Re Bard IVC Filters Products
Liability Litigation

No. MD-15-02641-PHX-DGC

SHERR-UNA BOOKER, an individual,

Plaintiff,

v.

C.R. BARD, INC., a New Jersey
corporation and BARD PERIPHERAL
VASCULAR, an Arizona corporation,

Defendants.

**MOTION TO SEAL DOCUMENTS
RELATED TO PLAINTIFF SHERR-UNA
BOOKER'S RESPONSE TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

In accordance with Section 25 of the Stipulated Protective Order [Doc. 269], Federal Rule of Civil Procedure 26(c)(1)(G), and Local Civil Rule 5.6, Plaintiff Booker moves this Court for an Order sealing Plaintiff's Response and Opposition to Defendants' Motion for Summary Judgment ("Response"), her controverting statements of facts ("CSOF"), her Supplement to Plaintiffs' Omnibus Separate Statement of Facts in Support of their Responses to Defendants' Motions for Summary Judgement ("OSOF") and the corresponding exhibits in support thereof. Plaintiff Booker's Response, CSOF, Supplemental OSOF and the corresponding exhibits contain personal healthcare information regarding this bellwether plaintiff that is protected under HIPAA and

1 confidential under the Stipulated Protective Order, warranting protection from public
2 disclosure.

3 Plaintiff's personal healthcare information is protected under the Privacy Rule of
4 the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 45 C.F.R. §
5 160, 164(A) & (E), as well as several state-law privileges. The knowing disclosure of such
6 information is prohibited by 42 U.S.C. § 1320d-6. This Court has already granted the
7 filing under seal of the same (or similar) information when the parties submitted their
8 respective bellwether submissions. [See Doc. 4366.]

9 As such, Plaintiff Booker contends that the documents listed in Exhibit A are
10 confidential and should be filed under seal.¹ Plaintiff has separately filed redacted
11 versions of these documents. Plaintiff and Defendants shall meet and confer regarding the
12 various exhibits to attempt to resolve confidentiality disputes.

13 Accordingly, Plaintiff requests that the Court order the information and documents
14 lodged with Plaintiff Booker's Response, CSOF, Supplemental OSOF and corresponding
15 exhibits be sealed pending final determination of confidentiality.

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24 ¹ Plaintiff has also lodged under seal (in her Notice of Lodging Certain Documents Under
25 Seal Related to Plaintiff Sherr-una Booker's Responses to Bard's Motion for Summary
26 Judgement) her "Supplemental OSOF" because it contains factual statements based on the
27 contents of documents that Defendants have claimed to be confidential. Because the
28 resolution of those confidentiality claims will determine what redactions will be made to
the Supplemental OSOF, Plaintiff has not filed a redacted Supplemental OSOF and will
file a properly redacted version of the document once the confidentiality issues are
determined by the Court.

1 RESPECTFULLY SUBMITTED this 12th day of October, 2017.

2 GALLAGHER & KENNEDY, P.A.

3 By: /s/ Mark S. O'Connor

4 Mark S. O'Connor
5 2575 East Camelback Road
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7 LOPEZ McHUGH LLP

8 Ramon Rossi Lopez (CA Bar No. 86361)
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11 Newport Beach, California 92660

12 *Counsel for Plaintiffs*

13 **CERTIFICATE OF SERVICE**

14 I hereby certify that on this 12th day of October 2017, I electronically transmitted
15 the attached document to the Clerk's Office using the CM/ECF System for filing and
16 transmittal of a Notice of Electronic Filing.

17 /s/ Gay Mennuti

EXHIBIT A**Documents:**

Plaintiff Sherr-una Booker's Response in Opposition to Defendants' Motion for Summary Judgment ("Response")

Plaintiff's Controverting Statements of Facts in Opposition to Bard's Motion for Summary Judgment as to Plaintiff Sheer-una Booker's Claims ("CSOF")
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Supplement to the Plaintiffs' Omnibus Separate Statement of Facts in Support of their Responses to Defendants' Motions for Summary Judgment as to Plaintiff Sheer-una Booker's Claims ("Supplemental OSOF")

Exhibits to "CSOF":

Exhibit A	Dr. Muehrcke's Deposition Transcript (July 24, 2017)
Exhibit B	Dr. D'Ayala's Deposition Transcript (March 21, 2017)
Exhibit D	Dr. Kang's Deposition Transcript (June 15, 2017)
Exhibit E	Plaintiff Sherr-una Booker's Medical Records
Exhibit F	Dr. Hurst's Deposition Transcript (July 21, 2017)
Exhibit G	Plaintiff Sherr-una Booker's Deposition Transcript (Feb. 20, 2017)

Exhibits to "Supplemental OSOF":

Exhibit B-A	Plaintiff Sherr-una Booker's Medical Records
Exhibit B-B	Dr. D'Ayala's Deposition Transcript (March 21, 2017)
Exhibit B-C	Dr. Kang's Deposition Transcript (June 15, 2017)
Exhibit B-D	Dr. Harvey's Deposition Transcript (June 20, 2017)
Exhibit B-E	Plaintiff Sherr-una Booker's Deposition Transcript (Feb. 20, 2017)